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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,975	06/27/2005	Fabien Cens	21.1087	5988

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EXAMINER

EDGAR, RICHARD A

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,975	<b>Applicant(s)</b> CENS ET AL.	
	<b>Examiner</b> Richard Edgar	<b>Art Unit</b> 3745	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 18-34 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 and 32 is/are allowed.
- 6) ☒ Claim(s) 18, 19, 21, 28, 29, 33 and 34 is/are rejected.
- 7) ☒ Claim(s) 20, 22-27 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/21/2005</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

The drawings are objected to because:

- FIG. 2A, FIG. 2B, FIG. 2C and FIG. 2D are not partial views of one another intended to form one complete view. Rather, FIG. 2A, FIG. 2B, FIG. 2C and FIG. 2D are different views. Accordingly, FIG. 2A, FIG. 2B, FIG. 2C and FIG. 2D must be renumbered so that the views are labeled in consecutive Arabic numerals. See 37 C.F.R. §1.84(u)(1). The specification must be correspondingly amended with changes made to the view numbers.
- FIG. 3A and FIG. 3B are not partial views of one another intended to form one complete view. Rather, FIG. 3A and FIG. 3B are different views. Accordingly, FIG. 3A and FIG. 3B must be renumbered so that the views are labeled in consecutive Arabic numerals. See 37 C.F.R. §1.84(u)(1). The specification must be correspondingly amended with changes made to the view numbers.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Examiner Note***

The use of the trademark INCONEL has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Claim Rejections - 35 USC § 112, 1<sup>st</sup> Paragraph***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 18-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 18 recites "the lowest possible coefficient of friction" in line 4. One having ordinary skill in the art cannot determine what Applicant considers "the lowest possible coefficient of friction" to include/exclude.

***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> Paragraph***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 33 recites "the step" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 33 recites "the dog" in line 3. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18, 19, 21 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 3,598,456 (Love hereinafter).

Love shows an impeller device for data acquisition in a flow, comprising a support 4 to hold a spindle 6 around which the impeller 18 is fitted, two bearing blocks 36, 53 mounted on the support, these bearing blocks being made from sapphire (col. 3, lines 67-68) and each comprising an approximately conical recess 38, 56 into which one of the ends of the spindle fits (see col. 3, lines 40-41 and 71-72), the ends 20, 22 of the spindle being approximately conical (see col. 3, lines 9-10).

The bearing blocks 36, 53 are each movable (see FIG. 4) and able to be fixed at a desired position (see screw 66) relative to the support.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 21, 28 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 2,316,021 (Rippingille hereinafter) in view of United States Patent No. 3,598,456 (Love hereinafter).

Rippingille shows an impeller device for data acquisition in a flow, comprising a stirrup 10 support to hold a spindle 4 around which the impeller 1 is fit, two bearing blocks 5, 6 mounted on the support, these bearing blocks made from a low coefficient of friction material and each comprising a recess into which one of the ends of the spindle 4 fits.

Each bearing block 5, 6 is adjustable with respect to the spindle 4 by torquing the blocks 5, 6.

Rippingille does not disclose the bearing block recesses and ends of the spindle having a complementary conical-shape.

Rippingille also does not state that the support is made from Inconel.

Love shows jewel bearings blocks 36, 53 having conical recesses 38, 56 wherein the shaft 6 has complimentary conical tips 20, 22 for the purpose of supporting the rotating impeller shaft.

Since Rippingille shows jewel bearings for supporting an impeller shaft, and Love teaches to use conical recesses in the jewel bearings as well as conical tips for the shaft, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the Rippingille reference to have conical recesses and conical shaft tips, as shown by Love, for the purpose of supporting the rotating impeller shaft.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 2,316,021 (Rippingille hereinafter) in view of United States Patent No. 3,598,456 (Love hereinafter) as applied to claim 28 above, and further in view of design choice.

Rippingille do not state the support is made from INCONEL.

Applicant has not disclosed that INCONEL solves any stated problem or is for any particular purpose. Moreover, it appears that the support of Rippingille, or applicant's invention, would perform equally well with the support made from any material having properties exceeding operational conditions.

Accordingly, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified Rippingille such that the support is made of INCONEL because such a modification would have been considered a mere design consideration which fails to patentably distinguish over Rippingille.

#### ***Allowable Subject Matter***

Claims 20, 22-27 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 31-32 are allowed.

Claim 33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.



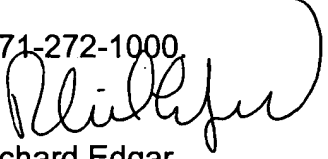
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**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Edgar whose telephone number is (571) 272-4816. The examiner can normally be reached on Mon.-Thur. and alternate Fri., 7 am- 5 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Richard Edgar  
Examiner  
Art Unit 3745

RE